

Application Serial No. 10/010,304
Amendment dated April 30, 2008
Reply to Office Action dated January 30, 2008

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REMARKS

The Action states that claims 6-10, 14, 18-23 and 33-51 are pending in the instant application. However, the Action recites claim 28 among the claims rejected in the 102 rejection, so Applicant concludes that the absence of claim 28 in the "Disposition of Claims" on page 1 of the Action was merely an oversight. Applicant furthermore notes that claims 18-23 were canceled previously.

Claims 6-10, 14, 28, 44 and 49 have been amended. New claim 52 has been added. Reconsideration of the rejection is respectfully requested in view of the following remarks.

Applicant respectfully submits that the amendments to claims 6-9 are fully supported by the specification as originally filed. In particular, the amendments to claims 6-9 are supported, for example, at page 5, lines 47-49. The amendments to claims 10 and 44 are narrowing amendments. New claim 52 is supported, for example, by page 2, lines 54 and 55, page 4, lines 31-34 and by page 13, lines 28 and 29.

Claim Rejections - 35 USC §112

Claims 33, 36, 39-43, 45 and 49 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicant respectfully traverses this rejection.

Applicant respectfully submits that the above-mentioned claims are fully supported by the specification as originally filed. For example,
claims 33 and 39 find support in Paragraph [0036];
claim 36 finds support in claim 20 as originally filed;
claim 40 finds support in claim 2 as originally filed;
claim 41 finds support in claim 4 as originally filed, as well as in Paragraph [0033];
claim 42 finds support in claims 6, 7 and 8 as originally filed;
claim 43 finds support in claim 9 as originally filed;
claim 45 finds support in claim 11 as originally filed; and
claim 49 finds support in Paragraph [0023];

Claims 10 and 44 appear to be rejected under 35 U.S.C. §112, second paragraph as being indefinite. The Action states that a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered

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indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired, the Action citing MPEP 2173.05(c). Applicant respectfully submits that the amendments to claims 10 and 44 render moot this ground for rejection.

Claims 6-10, 14, 28 and 33-51 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The Action states that it is not clear what "volume" is being referred to. Specifically, the Action stated that it is not clear whether the "entire volume" includes the "second solvent" or not.

In response, Applicant respectfully submits that it should be clear from the teaching of the instant specification that the volume of "second solvent" or "gelling solvent" or "liquid swelling agent" is included in "the entire volume". Specifically, the passage at page 5, lines 47-48 recites: "Instead, the entire volume begins to thicken as the dissolved polymer absorbs the "gelling solvent". See also lines 49 and 50 which recites: "If the beginning polymer solvent volume was 20 ml, and 20 ml of "gelling solvent" were added, the result would be 40 ml of gel." Applicant respectfully submits, however, that the amendments to claims 6-9, 14 and 28 should render this rejection moot.

Claim Rejections - 35 USC §102

Claims 8, 10, 23, 24, 28 and 41-51 are rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 5,077,049 to Dunn (hereinafter referred to as "Dunn"). Applicant respectfully traverses this rejection.

Applicant respectfully submits that Dunn does not expressly or inherently disclose the claimed invention featuring "the entire volume" transforming to a gel. The above-discussed amendment closes off the possible interpretation advanced by the Action that the gelling solvent might not be part of the claimed "entire volume". In contrast, Dunn discloses coagulating a polymer solution with water (see, for example, col. 5, lines 38-41). The instant specification makes clear that a substance that causes a polymer to precipitate out of solution can be referred to as a "non-solvent", a "failed solvent" or a "coagulant". See, for example, page 4, lines 32-35. Further, Dunn discloses a system of polymer dissolved in a solvent and a poorer solvent that **precipitates** with the slightest physiological environment (see col. 6, lines 3-10). Precipitation necessarily means that something less than the entire volume turns to gel, as the precipitation event leaves a supernatant.

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Regarding claim 28 in particular:

The Action states that, contrary to its 01/13/2006 office action, Dunn discloses THF as a solvent after all.

In response, Applicant notes that claim 28 of the instant application identifies THF as a candidate solvent, and DMSO (dimethyl sulfoxide) as a candidate liquid gelling agent. Dunn discloses both THF and DMSO as candidate solvents. See, for example, claim 4. Claim 4 of Dunn further states that the solvent can be a combination of substances. Applicant respectfully submits, however, that such a combination of THF and DMSO *still does not anticipate* claim 28 because claim 28 requires sequential addition, not a combination. In fact, the instant specification makes clear that the instant process **does not work** when one attempts to dissolve polymer in a **combination** of THF and gelling solvent (which the Example states includes DMSO). See, for example, page 13, lines 24-26.

Accordingly, Applicant respectfully requests that this rejection be withdrawn.

Claims 6, 7 and 9 remain rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,492,154 to Einstman (hereinafter referred to as "Einstman") in view of U.S. Patent No. 5,447,724 to Helmus and U.S. Patent No. 4,769,286 to LeNoane. Applicant respectfully traverses this rejection.

Applicant respectfully submits that Einstman does not expressly or inherently disclose the claimed invention featuring "the entire volume" transforming to a gel. Rather, Einstman uses the word "gel" in quotes; however, he teaches a classic coagulation or precipitation event: "By the term 'gel', it is meant that the polymeric component partially separates from the solvent and non-solvent of the composition." (col. 2, lines 11-14). Neither Helmus nor LeNoane disclose or suggests anything that alters this fact.

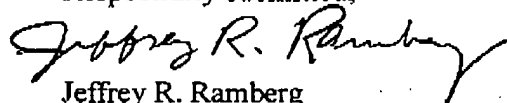
Accordingly, Applicant respectfully requests that this rejection be withdrawn.

In view of the above remarks, Applicant respectfully submits that the present application is in condition for allowance. Accordingly, Applicant respectfully requests issuance of a Notice of Allowance directed to claims 6-10, 14, 28 and 33-52.

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Should the Examiner deem that any further action on the part of Applicant would be desirable, the Examiner is invited to telephone Applicant's undersigned representative.

Respectfully submitted,



Jeffrey R. Ramberg
Reg. No. 34,700

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c/o Kenscy Nash Corporation
735 Pennsylvania Drive
Exton, PA 19341
Tel: (484) 713-2140
Fax: (484) 713-2909